

5927--A

2013-2014 Regular Sessions

I N S E N A T E

August 21, 2013

Introduced by Sen. KRUEGER -- read twice and ordered printed, and when printed to be committed to the Committee on Rules -- recommitted to the Committee on Environmental Conservation in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the environmental conservation law, in relation to expanding the provisions of the New York state plastic bag reduction, reuse and recycling law to require the collection and deposit of a five cent charge for each plastic bag provided by a retailer to its customers and a five cent charge on each piece of plastic film shipped to the state and to repeal certain provisions of such law relating thereto

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivisions 4, 5 and 6 of section 27-2701 of the environ-
2 mental conservation law, as added by chapter 641 of the laws of 2008,
3 are amended and two new subdivisions 7 and 8 are added to read as
4 follows:
5 4. (A) "Plastic carryout bag" means a SINGLE-USE plastic carryout bag
6 WHICH IS 2.25 MM THICK OR LESS, HAS HANDLES, IS INTENDED FOR THE PURPOSE
7 OF CARRYING PURCHASED ITEMS AND IS provided by a store to a customer at
8 the point of sale.
9 (B) PLASTIC BAGS INTENDED TO DIRECTLY CONTAIN FOOD (SUCH AS SANDWICH
10 BAGS, HANDLE-LESS PRODUCE BAGS) ARE NOT SINGLE-USE CARRYOUT BAGS.
11 5. (A) "Reusable bag" means:
12 [(a)] (1) a bag made of cloth or other machine washable fabric that
13 has handles; or
14 [(b)] (2) a durable plastic bag with handles that is specifically
15 designed and manufactured for multiple reuse; SUCH BAG SHALL BE OVER
16 2.25 MM THICK AND BE INTENDED TO CARRY A MINIMUM OF TWENTY POUNDS A
17 MINIMUM OF FIFTY WALKING TRIPS OF A MINIMUM OF ONE HALF MILE.

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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(B) REUSABLE BAGS MUST MEET SAFETY STANDARDS FOR CONTAINING FOOD ITEMS AND MAY NOT CONTAIN TOXIC METALS OR OTHER POTENTIAL FOOD CONTAMINANTS.

6. "Store" means a retail establishment that provides plastic carryout bags to its customers as a result of the sale of a product and (a) has over [ten] FIVE thousand square feet of retail space, or (b) such retail establishment is part of a chain engaged in the same general field of business which operates five or more units of over [five] THREE thousand square feet of retail space in this state under common ownership and management. RESTAURANTS AND BUSINESSES WHICH OFFER SOLELY OR PRIMARILY PREPARED FOODS ARE NOT SUBJECT TO THIS LAW.

7. "PLASTIC FILM" MEANS THE DISPOSABLE PLASTIC MATERIAL USED TO COVER DRY-CLEANING, USED AS SHRINK-WRAP FOR PROTECTION OR SHIPPING PURPOSES, OR TO BAGS TO CONTAIN OR COVER OTHER NON-FOOD ITEMS.

8. A "DEPOSIT INITIATOR" FOR EACH PLASTIC BAG OR PIECE OF PLASTIC FILM FOR WHICH A CHARGE IS ESTABLISHED UNDER SECTION 27-2713 OF THIS ARTICLE MEANS:

(A) A RETAILER WHO PROVIDES SUCH PLASTIC BAGS TO ITS CUSTOMERS; AND

(B) ANY CORPORATION OR ENTITY WHICH SHIPS ITEMS TO THE STATE IN PLASTIC FILM.

S 2. Subdivisions 2 and 3 of section 27-2705 of the environmental conservation law, as added by chapter 641 of the laws of 2008, are amended to read as follows:

2. a plastic carryout bag collection bin that is visible, easily accessible to the consumer, and clearly marked that the collection bin is available for the purpose of collecting and recycling plastic carryout bags[. This subdivision shall apply to stores not within an enclosed shopping mall and stores of at least fifty thousand square feet within an enclosed shopping mall. In the case of an enclosed shopping mall, the owner of the enclosed mall shall place bins at reasonable intervals throughout the enclosed mall area];

3. all plastic carryout bags collected by the store to be collected, transported and recycled along with any other in-store plastic recycling, except for plastic bags that are not sufficiently free of foreign material to enter the recycling stream. Plastic carryout bags collected by the store or the manufacturer, which are free of foreign material, shall not be disposed of in any solid waste disposal facility permitted or authorized pursuant to title seven of this article. THE STORE SHALL ALSO ACCEPT CLEAN PLASTIC FILM IN THE RECYCLING BINS;

S 3. Section 27-2713 of the environmental conservation law is REPEALED and three new sections 27-2713, 27-2715 and 27-2717 are added to read as follows:

S 27-2713. CHARGES AND DEPOSITS.

1. A CHARGE OF FIVE CENTS PER BAG SHALL BE IMPOSED BY EACH RETAILER PROVIDING SINGLE-USE CARRYOUT BAGS MADE OF PAPER OR PLASTIC TO ITS CUSTOMERS. THIS CHARGE SHALL BE INCURRED BY THE CUSTOMER AT THE POINT OF SALE, AND WILL APPEAR AS A SEPARATE CHARGE ON THE RECEIPT RECEIVED BY THE CUSTOMER FOR THE PURCHASED ITEMS. COMPOSTABLE, BIODEGRADABLE BAGS ARE EXEMPT FROM THIS CHARGE.

2. A CHARGE OF FIVE CENTS PER PIECE OF PLASTIC FILM PROVIDED IN OR BEING SHIPPED TO NEW YORK STATE SHALL BE IMPOSED BY EACH CORPORATION OR OTHER ENTITY SHIPPING ITEMS TO THE STATE IN PLASTIC FILM. THIS CHARGE SHALL APPEAR AS A SEPARATE CHARGE ON THE SHIPPING BILL.

3. THE FIVE CENT CHARGE SHALL BE DIVIDED AS FOLLOWS:

(A) THE RETAILER DISPENSING THE PLASTIC BAG SHALL RETAIN TWO CENTS OF EACH CHARGE;

(B) THREE CENTS SHALL BE DEPOSITED IN A PLASTIC BAG AND FILM CHARGE ACCOUNT AS PROVIDED IN SECTION 27-2715 OF THIS TITLE AND SHALL BE UTILIZED AS FOLLOWS:

(1) ONE CENT OF EACH CHARGE SHALL BE DESIGNATED FOR THE PURPOSE OF MAINTAINING THE STATE PARKS; AND

(2) TWO CENTS OF EACH CHARGE SHALL BE DESIGNATED FOR THE PURPOSE OF SUPPORTING AN EXPANSION OF THE RECYCLING PROGRAM THROUGH PUBLIC EDUCATION AND SUPPORT OF RETAILERS IN OBTAINING BINS AND/OR SIGNAGE NEEDED AT THE DISCRETION OF THE DEPARTMENT.

S 27-2715. DEPOSIT AND DISPOSITION OF CHARGES; REGISTRATION; REPORTS.

1. EACH DEPOSIT INITIATOR SHALL DEPOSIT IN A PLASTIC BAG AND FILM CHARGE ACCOUNT AN AMOUNT EQUAL TO THE CHARGE ESTABLISHED UNDER SECTION 27-2713 OF THIS TITLE WHICH IS RECEIVED WITH RESPECT TO EACH PLASTIC BAG PROVIDED TO CUSTOMERS OR PIECE OF PLASTIC FILM SHIPPED TO THE STATE BY SUCH DEPOSIT INITIATOR. SUCH DEPOSIT INITIATOR SHALL HOLD THE AMOUNTS IN THE PLASTIC BAG AND FILM CHARGE ACCOUNT IN TRUST FOR THE STATE. A PLASTIC BAG AND FILM CHARGE ACCOUNT SHALL BE AN INTEREST-BEARING ACCOUNT ESTABLISHED IN A BANKING INSTITUTION LOCATED IN THIS STATE, THE DEPOSITS IN WHICH ARE INSURED BY AN AGENCY OF THE FEDERAL GOVERNMENT. DEPOSITS OF SUCH AMOUNTS INTO THE PLASTIC BAG AND FILM CHARGE ACCOUNT SHALL BE MADE NOT LESS FREQUENTLY THAN EVERY FIVE BUSINESS DAYS. ALL INTEREST, DIVIDENDS AND RETURNS EARNED ON THE PLASTIC BAG AND FILM CHARGE ACCOUNT SHALL BE PAID DIRECTLY INTO SAID ACCOUNT. THE MONIES IN SUCH ACCOUNTS SHALL BE KEPT SEPARATE AND APART FROM ALL OTHER MONIES IN THE POSSESSION OF THE DEPOSIT INITIATOR. THE COMMISSIONER OF TAXATION AND FINANCE MAY SPECIFY A SYSTEM OF ACCOUNTS AND RECORDS TO BE MAINTAINED WITH RESPECT TO ACCOUNTS ESTABLISHED UNDER THIS SUBDIVISION.

2. PAYMENTS OF CHARGES ESTABLISHED UNDER SECTION 27-2713 OF THIS TITLE SHALL BE PAID FROM EACH DEPOSIT INITIATOR'S PLASTIC BAG AND FILM CHARGE ACCOUNT. NO OTHER PAYMENT OR WITHDRAWAL FROM SUCH ACCOUNT MAY BE MADE EXCEPT AS PRESCRIBED BY THIS SECTION.

3. EACH DEPOSIT INITIATOR SHALL FILE QUARTERLY REPORTS WITH THE COMMISSIONER OF TAXATION AND FINANCE ON A FORM AND IN THE MANNER PRESCRIBED BY SUCH COMMISSIONER. THE COMMISSIONER OF TAXATION AND FINANCE MAY REQUIRE SUCH REPORTS TO BE FILED ELECTRONICALLY. THE QUARTERLY REPORTS REQUIRED BY THIS SUBDIVISION SHALL BE FILED FOR THE QUARTERLY PERIODS ENDING ON THE LAST DAY OF MAY, AUGUST, NOVEMBER AND FEBRUARY OF EACH YEAR, AND EACH SUCH REPORT SHALL BE FILED WITHIN TWENTY DAYS AFTER THE END OF THE QUARTERLY PERIOD COVERED THEREBY. EACH SUCH REPORT SHALL INCLUDE ALL INFORMATION SUCH COMMISSIONER SHALL DETERMINE APPROPRIATE INCLUDING BUT NOT LIMITED TO THE FOLLOWING INFORMATION:

(A) THE BALANCE IN THE PLASTIC BAG AND FILM CHARGE ACCOUNT AT THE BEGINNING OF THE QUARTER FOR WHICH THE REPORT IS PREPARED;

(B) ALL SUCH DEPOSITS CREDITED TO THE PLASTIC BAG AND FILM CHARGE ACCOUNT AND ALL INTEREST, DIVIDENDS OR RETURNS RECEIVED ON SUCH ACCOUNT, DURING SUCH QUARTER;

(C) ALL WITHDRAWALS FROM THE PLASTIC BAG AND FILM CHARGE ACCOUNT DURING SUCH QUARTER, INCLUDING ALL REIMBURSEMENTS PAID PURSUANT TO SUBDIVISION TWO OF THIS SECTION, ALL SERVICE CHARGES ON THE ACCOUNT, AND ALL PAYMENTS MADE PURSUANT TO SUBDIVISION FOUR OF THIS SECTION; AND

(D) THE BALANCE IN THE PLASTIC BAG AND FILM CHARGE ACCOUNT AT THE CLOSE OF SUCH QUARTER.

4. (A) QUARTERLY PAYMENTS. AN AMOUNT EQUAL TO EIGHTY PERCENT OF THE BALANCE OUTSTANDING IN THE PLASTIC BAG AND FILM CHARGE ACCOUNT AT THE CLOSE OF EACH QUARTER SHALL BE PAID TO THE COMMISSIONER OF TAXATION AND FINANCE AT THE TIME THE REPORT PROVIDED FOR IN SUBDIVISION THREE OF THIS

1 SECTION IS REQUIRED TO BE FILED. THE COMMISSIONER OF TAXATION AND
2 FINANCE MAY REQUIRE THAT THE PAYMENTS BE MADE ELECTRONICALLY. THE
3 REMAINING TWENTY PERCENT OF THE BALANCE OUTSTANDING AT THE CLOSE OF EACH
4 QUARTER SHALL BE THE MONIES OF THE DEPOSIT INITIATOR AND MAY BE WITH-
5 DRAWN FROM SUCH ACCOUNT BY THE DEPOSIT INITIATOR. IF THE PROVISIONS OF
6 THIS SECTION WITH RESPECT TO SUCH ACCOUNT HAVE NOT BEEN FULLY COMPLIED
7 WITH, EACH DEPOSIT INITIATOR SHALL PAY TO SUCH COMMISSIONER AT SUCH
8 TIME, IN LIEU OF THE AMOUNT DESCRIBED IN THE PRECEDING SENTENCE, AN
9 AMOUNT EQUAL TO THE BALANCE WHICH WOULD HAVE BEEN OUTSTANDING ON SUCH
10 DATE HAD SUCH PROVISIONS BEEN FULLY COMPLIED WITH. THE COMMISSIONER OF
11 TAXATION AND FINANCE MAY REQUIRE THAT THE PAYMENTS BE MADE ELECTRON-
12 ICALLY.

13 (B) PLASTIC BAG AND FILM CHARGE ACCOUNT SHORTFALL. IN THE EVENT A
14 DEPOSIT INITIATOR PAYS OUT MORE IN REFUND VALUES THAN IT COLLECTS IN
15 DEPOSITS OF REFUND VALUES DURING THE COURSE OF A QUARTERLY PERIOD AS
16 DESCRIBED IN SUBDIVISION THREE OF THIS SECTION, THE DEPOSIT INITIATOR
17 MAY APPLY TO THE COMMISSIONER OF TAXATION AND FINANCE FOR A REFUND OF
18 THE AMOUNT OF SUCH EXCESS PAYMENT OF CHARGES FROM SOURCES OTHER THAN THE
19 PLASTIC BAG AND FILM CHARGE ACCOUNT, IN THE MANNER AS PROVIDED BY THE
20 COMMISSIONER OF TAXATION AND FINANCE. A DEPOSIT INITIATOR MUST APPLY FOR
21 A REFUND NO LATER THAN TWELVE MONTHS AFTER THE DUE DATE FOR FILING THE
22 QUARTERLY REPORT FOR THE QUARTERLY PERIOD FOR WHICH THE REFUND CLAIM IS
23 MADE. NO INTEREST SHALL BE PAYABLE FOR ANY REFUND PAID PURSUANT TO THIS
24 PARAGRAPH.

25 (C) FINAL REPORT. A DEPOSIT INITIATOR WHO CEASES TO DO BUSINESS IN
26 THIS STATE AS A DEPOSIT INITIATOR SHALL FILE A FINAL REPORT AND REMIT
27 PAYMENT OF EIGHTY PERCENT OF ALL AMOUNTS REMAINING IN THE PLASTIC BAG
28 AND FILM CHARGE ACCOUNT AS OF THE CLOSE OF THE DEPOSIT INITIATOR'S LAST
29 DAY OF BUSINESS. THE COMMISSIONER OF TAXATION AND FINANCE MAY REQUIRE
30 THAT THE PAYMENTS BE MADE ELECTRONICALLY. THE DEPOSIT INITIATOR SHALL
31 INDICATE ON THE REPORT THAT IT IS A "FINAL REPORT". THE FINAL REPORT IS
32 DUE TO BE FILED WITH PAYMENT TWENTY DAYS AFTER THE CLOSE OF THE QUARTER-
33 LY PERIOD IN WHICH THE DEPOSIT INITIATOR CEASES TO DO BUSINESS. IN THE
34 EVENT THE DEPOSIT INITIATOR PAYS OUT MORE IN CHARGES THAN IT COLLECTS IN
35 SUCH FINAL QUARTERLY PERIOD, THE DEPOSIT INITIATOR MAY APPLY TO THE
36 COMMISSIONER OF TAXATION AND FINANCE FOR A REFUND OF THE AMOUNT OF SUCH
37 EXCESS PAYMENT OF CHARGES FROM SOURCES OTHER THAN THE PLASTIC BAG AND
38 FILM CHARGE ACCOUNT, IN THE MANNER AS PROVIDED BY THE COMMISSIONER OF
39 TAXATION AND FINANCE.

40 5. ALL MONIES COLLECTED OR RECEIVED BY THE DEPARTMENT OF TAXATION AND
41 FINANCE PURSUANT TO THIS TITLE SHALL BE DEPOSITED TO THE CREDIT OF THE
42 COMPTROLLER WITH SUCH RESPONSIBLE BANKS, BANKING HOUSES OR TRUST COMPA-
43 NIES AS MAY BE DESIGNATED BY THE COMPTROLLER. SUCH DEPOSITS SHALL BE
44 KEPT SEPARATE AND APART FROM ALL OTHER MONEYS IN THE POSSESSION OF THE
45 COMPTROLLER. THE COMPTROLLER SHALL REQUIRE ADEQUATE SECURITY FROM ALL
46 SUCH DEPOSITORIES. OF THE TOTAL REVENUE COLLECTED, THE COMPTROLLER SHALL
47 RETAIN THE AMOUNT DETERMINED BY THE COMMISSIONER OF TAXATION AND FINANCE
48 TO BE NECESSARY FOR REFUNDS OUT OF WHICH THE COMPTROLLER MUST PAY ANY
49 REFUNDS TO WHICH A DEPOSIT INITIATOR MAY BE ENTITLED. AFTER RESERVING
50 THE AMOUNT TO PAY REFUNDS, THE COMPTROLLER MUST, BY THE TENTH DAY OF
51 EACH MONTH, DEPOSITED TO THE CREDIT OF THE ENVIRONMENTAL PROTECTION FUND
52 ESTABLISHED PURSUANT TO SECTION NINETY-TWO-S OF THE STATE FINANCE LAW.

53 6. THE COMMISSIONER AND THE COMMISSIONER OF TAXATION AND FINANCE SHALL
54 PROMULGATE, AND SHALL CONSULT EACH OTHER IN PROMULGATING, SUCH RULES AND
55 REGULATIONS AS MAY BE NECESSARY TO EFFECTUATE THE PURPOSES OF THIS
56 TITLE. THE COMMISSIONER AND THE COMMISSIONER OF TAXATION AND FINANCE

1 SHALL PROVIDE ALL NECESSARY AID AND ASSISTANCE TO EACH OTHER, INCLUDING
2 THE SHARING OF ANY INFORMATION THAT IS NECESSARY TO THEIR RESPECTIVE
3 ADMINISTRATION AND ENFORCEMENT RESPONSIBILITIES PURSUANT TO THE
4 PROVISIONS OF THIS TITLE.

5 7. (A) ANY PERSON WHO IS A DEPOSIT INITIATOR UNDER THIS TITLE BEFORE
6 APRIL FIRST, TWO THOUSAND FIFTEEN, MUST APPLY BY JUNE FIRST, TWO THOU-
7 SAND FIFTEEN TO THE COMMISSIONER OF TAXATION AND FINANCE FOR REGISTRA-
8 TION AS A DEPOSIT INITIATOR. ANY PERSON WHO BECOMES A DEPOSIT INITIATOR
9 ON OR AFTER APRIL FIRST, TWO THOUSAND FIFTEEN SHALL APPLY FOR REGISTRA-
10 TION PRIOR TO COLLECTING ANY DEPOSITS AS SUCH A DEPOSIT INITIATOR. SUCH
11 APPLICATION SHALL BE IN A FORM PRESCRIBED BY THE COMMISSIONER OF TAXA-
12 TION AND FINANCE AND SHALL REQUIRE SUCH INFORMATION DEEMED TO BE NECES-
13 SARY FOR PROPER ADMINISTRATION OF THIS TITLE. THE COMMISSIONER OF TAXA-
14 TION AND FINANCE MAY REQUIRE THAT APPLICATIONS FOR REGISTRATION MUST BE
15 SUBMITTED ELECTRONICALLY. THE COMMISSIONER OF TAXATION AND FINANCE SHALL
16 ELECTRONICALLY ISSUE A DEPOSIT INITIATOR REGISTRATION CERTIFICATE IN A
17 FORM PRESCRIBED BY THE COMMISSIONER OF TAXATION AND FINANCE WITHIN
18 FIFTEEN DAYS OF RECEIPT OF SUCH APPLICATION OR MAY TAKE AN ADDITIONAL
19 TEN DAYS IF THE COMMISSIONER OF TAXATION AND FINANCE DEEMS IT NECESSARY
20 TO CONSULT WITH THE COMMISSIONER BEFORE ISSUING SUCH REGISTRATION
21 CERTIFICATE. A REGISTRATION CERTIFICATE ISSUED PURSUANT TO THIS SUBDI-
22 VISION MAY BE ISSUED FOR A SPECIFIED TERM OF NOT LESS THAN THREE YEARS
23 AND SHALL BE SUBJECT TO RENEWAL IN ACCORDANCE WITH PROCEDURES SPECIFIED
24 BY THE COMMISSIONER OF TAXATION AND FINANCE. THE COMMISSIONER OF TAXA-
25 TION AND FINANCE SHALL FURNISH TO THE COMMISSIONER A COMPLETE LIST OF
26 REGISTERED DEPOSIT INITIATORS AND SHALL CONTINUALLY UPDATE SUCH LIST AS
27 WARRANTED. THE COMMISSIONER SHALL SHARE ANY INFORMATION WITH THE COMMIS-
28 SIONER OF TAXATION AND FINANCE THAT IS NECESSARY FOR THE ADMINISTRATION
29 OF THIS SUBDIVISION.

30 (B) THE COMMISSIONER OF TAXATION AND FINANCE SHALL HAVE THE AUTHORITY
31 TO REVOKE OR REFUSE TO RENEW ANY REGISTRATION ISSUED PURSUANT TO THIS
32 SUBDIVISION WHEN HE OR SHE HAS DETERMINED OR HAS BEEN INFORMED BY THE
33 COMMISSIONER THAT ANY OF THE PROVISIONS OF THIS TITLE OR RULES AND REGU-
34 LATIONS PROMULGATED THEREUNDER HAVE BEEN VIOLATED. SUCH VIOLATIONS SHALL
35 INCLUDE, BUT NOT BE LIMITED TO, THE FAILURE TO FILE QUARTERLY REPORTS,
36 THE FAILURE TO MAKE PAYMENTS PURSUANT TO THIS SUBDIVISION, THE PROVIDING
37 OF FALSE OR FRAUDULENT INFORMATION TO EITHER THE DEPARTMENT OF TAXATION
38 AND FINANCE OR THE DEPARTMENT, OR KNOWINGLY AIDING OR ABETTING ANOTHER
39 PERSON IN VIOLATING ANY OF THE PROVISIONS OF THIS TITLE. A NOTICE OF
40 PROPOSED REVOCATION OR NON-RENEWAL SHALL BE GIVEN TO THE DEPOSIT INITI-
41 ATOR IN THE MANNER PRESCRIBED FOR A NOTICE OF DEFICIENCY OF TAX AND ALL
42 THE PROVISIONS APPLICABLE TO A NOTICE OF DEFICIENCY UNDER ARTICLE TWEN-
43 TY-SEVEN OF THE TAX LAW SHALL APPLY TO A NOTICE ISSUED PURSUANT TO THIS
44 PARAGRAPH, INsofar AS SUCH PROVISIONS CAN BE MADE APPLICABLE TO A NOTICE
45 AUTHORIZED BY THIS PARAGRAPH, WITH SUCH MODIFICATIONS AS MAY BE NECES-
46 SARY IN ORDER TO ADAPT THE LANGUAGE OF SUCH PROVISIONS TO THE NOTICE
47 AUTHORIZED BY THIS PARAGRAPH. ALL SUCH NOTICES ISSUED BY THE COMMISSION-
48 ER OF TAXATION AND FINANCE PURSUANT TO THIS PARAGRAPH SHALL CONTAIN A
49 STATEMENT ADVISING THE DEPOSIT INITIATOR THAT THE REVOCATION OR NON-RE-
50 NEWAL OF REGISTRATION MAY BE CHALLENGED THROUGH A HEARING PROCESS AND
51 THE PETITION FOR SUCH A CHALLENGE MUST BE FILED WITH THE COMMISSIONER OF
52 TAXATION AND FINANCE WITHIN NINETY DAYS AFTER SUCH NOTICE IS ISSUED. A
53 DEPOSIT INITIATOR WHOSE REGISTRATION HAS BEEN SO REVOKED OR NOT RENEWED
54 SHALL CEASE TO DO BUSINESS AS A DEPOSIT INITIATOR IN THIS STATE, UNTIL
55 THIS TITLE HAS BEEN COMPLIED WITH AND A NEW REGISTRATION HAS BEEN
56 ISSUED. ANY DEPOSIT INITIATOR WHOSE REGISTRATION HAS BEEN SO REVOKED MAY

1 NOT APPLY FOR REGISTRATION FOR TWO YEARS FROM THE DATE SUCH REVOCATION
2 TAKES EFFECT.

3 8. THE COMMISSIONER OF TAXATION AND FINANCE MAY REQUIRE THE MAINTENANCE OF SUCH ACCOUNTS, RECORDS OR DOCUMENTS RELATING TO THE PROVISION
4 OF PLASTIC BAGS OR THE SHIPPING OF ITEMS TO THE STATE IN PLASTIC FILM AS
5 SUCH COMMISSIONER MAY DEEM APPROPRIATE FOR THE ADMINISTRATION OF THIS
6 SECTION. SUCH COMMISSIONER MAY MAKE EXAMINATIONS, INCLUDING THE CONDUCT
7 OF FACILITY INSPECTIONS DURING REGULAR BUSINESS HOURS, WITH RESPECT TO
8 THE ACCOUNTS, RECORDS OR DOCUMENTS REQUIRED TO BE MAINTAINED UNDER THIS
9 SUBDIVISION. SUCH ACCOUNTS, RECORDS AND DOCUMENTS SHALL BE PRESERVED FOR
10 A PERIOD OF THREE YEARS, EXCEPT THAT SUCH COMMISSIONER MAY CONSENT TO
11 THEIR DESTRUCTION WITHIN THAT PERIOD OR MAY REQUIRE THAT THEY BE KEPT
12 LONGER. SUCH ACCOUNTS, RECORDS AND DOCUMENTS MAY BE KEPT WITHIN THE
13 MEANING OF THIS SUBDIVISION WHEN REPRODUCED BY ANY PHOTOGRAPHIC, PHOTOSTATIC, MICROFILM, MICRO-CARD, MINIATURE PHOTOGRAPHIC OR OTHER PROCESS
14 WHICH ACTUALLY REPRODUCES THE ORIGINAL ACCOUNTS, RECORDS OR DOCUMENTS.

15 9. (A) ANY PERSON REQUIRED TO BE REGISTERED UNDER THIS SECTION WHO,
16 WITHOUT BEING SO REGISTERED, PROVIDES PLASTIC BAGS TO CUSTOMERS OR SHIPS
17 ITEMS TO THE STATE IN PLASTIC FILM, IN ADDITION TO ANY OTHER PENALTY
18 IMPOSED BY THIS TITLE, SHALL BE SUBJECT TO A PENALTY TO BE ASSESSED BY
19 THE COMMISSIONER OF TAXATION AND FINANCE IN AN AMOUNT NOT TO EXCEED FIVE
20 HUNDRED DOLLARS FOR THE FIRST DAY ON WHICH SUCH SALES OR OFFERS FOR SALE
21 ARE MADE, PLUS AN AMOUNT NOT TO EXCEED FIVE HUNDRED DOLLARS FOR EACH
22 SUBSEQUENT DAY ON WHICH SUCH SALES OR OFFERS FOR SALE ARE MADE, NOT TO
23 EXCEED TWENTY-FIVE THOUSAND DOLLARS IN THE AGGREGATE.

24 (B) ANY DEPOSIT INITIATOR WHO FAILS TO FILE REPORTS, MAKE QUARTERLY
25 PAYMENTS OR MAINTAIN ACCOUNTS OR RECORDS PURSUANT TO THIS SECTION,
26 UNLESS IT IS SHOWN THAT SUCH FAILURE WAS DUE TO REASONABLE CAUSE AND NOT
27 DUE TO NEGLIGENCE OR WILLFUL NEGLECT, IN ADDITION TO ANY OTHER PENALTY
28 IMPOSED BY THIS TITLE, SHALL BE SUBJECT TO A PENALTY TO BE ASSESSED BY
29 THE COMMISSIONER OF TAXATION AND FINANCE OF NOT MORE THAN ONE THOUSAND
30 DOLLARS FOR EACH QUARTER DURING WHICH SUCH FAILURE OCCURRED, AND AN
31 ADDITIONAL PENALTY OF NOT MORE THAN ONE THOUSAND DOLLARS FOR EACH QUARTER SUCH FAILURE CONTINUES.

32 10. THE PROVISIONS OF ARTICLE TWENTY-SEVEN OF THE TAX LAW SHALL APPLY
33 TO THE PROVISIONS OF THIS TITLE FOR WHICH THE COMMISSIONER OF TAXATION
34 AND FINANCE IS RESPONSIBLE, INCLUDING COLLECTION OF REFUND VALUE
35 AMOUNTS, IN THE SAME MANNER AND WITH THE SAME FORCE AND EFFECT AS IF THE
36 LANGUAGE OF SUCH ARTICLE HAD BEEN INCORPORATED IN FULL INTO THIS SECTION
37 EXCEPT TO THE EXTENT THAT ANY PROVISION OF SUCH ARTICLE IS EITHER INCONSISTENT WITH A PROVISION OF THIS SECTION OR IS NOT RELEVANT TO THIS
38 SECTION AS DETERMINED BY THE COMMISSIONER OF TAXATION AND FINANCE.
39 FURTHERMORE, FOR PURPOSES OF APPLYING THE PROVISIONS OF ARTICLE TWENTY-
40 SEVEN OF THE TAX LAW, WHERE THE TERMS "TAX" AND "TAXES" APPEAR IN SUCH
41 ARTICLE, SUCH TERMS SHALL BE CONSTRUED TO MEAN "CHARGE" OR "BALANCE IN
42 THE PLASTIC BAG AND FILM CHARGE ACCOUNT".

43 11. IF ANY DEPOSIT INITIATOR FAILS OR REFUSES TO FILE A REPORT OR
44 FURNISH ANY INFORMATION REQUESTED IN WRITING BY THE DEPARTMENT OF TAXATION AND FINANCE OR THE DEPARTMENT, THE DEPARTMENT OF TAXATION AND
45 FINANCE WITH THE ASSISTANCE OF THE DEPARTMENT MAY, FROM ANY INFORMATION
46 IN ITS POSSESSION, MAKE AN ESTIMATE OF THE DEFICIENCY AND COLLECT SUCH
47 DEFICIENCY FROM SUCH DEPOSIT INITIATOR.

48 12. EACH DEPOSIT INITIATOR SHALL PROVIDE A REPORT TO THE DEPARTMENT
49 DESCRIBING ALL THE TYPES OF PLASTIC BAGS AND PLASTIC FILM ON WHICH IT
50 INITIATES CHARGES. THE REPORT SHALL INCLUDE SUCH INFORMATION THE

DEPARTMENT MAY REQUIRE. THE DEPARTMENT MAY REQUIRE THAT SUCH FORMS BE
FILED ELECTRONICALLY.

S 27-2717. VIOLATIONS.

1. ANY PERSON WHO SHALL VIOLATE ANY PROVISION OF THIS SECTION SHALL BE
LIABLE TO THE STATE OF NEW YORK FOR A CIVIL PENALTY OF NOT MORE THAN
FIVE HUNDRED DOLLARS, AND AN ADDITIONAL CIVIL PENALTY OF NOT MORE THAN
FIVE HUNDRED DOLLARS FOR EACH DAY DURING WHICH EACH SUCH VIOLATION
CONTINUES. ANY CIVIL PENALTY MAY BE ASSESSED FOLLOWING A HEARING OR
OPPORTUNITY TO BE HEARD.

2. ANY RETAILER WHO VIOLATES ANY PROVISION OF THIS TITLE SHALL BE
LIABLE TO THE STATE OF NEW YORK FOR A CIVIL PENALTY OF NOT MORE THAN ONE
THOUSAND DOLLARS, AND AN ADDITIONAL CIVIL PENALTY OF NOT MORE THAN ONE
THOUSAND DOLLARS FOR EACH DAY DURING WHICH EACH SUCH VIOLATION CONTIN-
UES. ANY CIVIL PENALTY MAY BE ASSESSED FOLLOWING A HEARING OR OPPORTU-
NITY TO BE HEARD.

3. (A) THE DEPARTMENT, THE DEPARTMENT OF AGRICULTURE AND MARKETS, THE
DEPARTMENT OF TAXATION AND FINANCE AND THE ATTORNEY GENERAL ARE HEREBY
AUTHORIZED TO ENFORCE THE PROVISIONS OF THIS TITLE AND ALL MONIES
COLLECTED SHALL BE DEPOSITED TO THE CREDIT OF THE ENVIRONMENTAL
PROTECTION FUND ESTABLISHED PURSUANT TO SECTION NINETY-TWO-S OF THE
STATE FINANCE LAW.

(B) THE PROVISIONS OF THIS SECTION MAY ALSO BE ENFORCED BY A COUNTY,
CITY, TOWN OR VILLAGE AND THE LOCAL LEGISLATIVE BODY THEREOF MAY ADOPT
LOCAL LAWS, ORDINANCES OR REGULATIONS CONSISTENT WITH THIS TITLE PROVID-
ING FOR THE ENFORCEMENT OF SUCH PROVISIONS.

4. ANY FINES THAT ARE COLLECTED BY THE STATE DURING PROCEEDINGS BY THE
STATE TO ENFORCE THE PROVISIONS OF THIS TITLE SHALL BE RETAINED BY THE
STATE. ANY FINES THAT ARE COLLECTED BY A MUNICIPALITY DURING PROCEEDINGS
BY THE MUNICIPALITY TO ENFORCE THE PROVISIONS OF THIS TITLE AGAINST A
RETAILER LOCATED IN THE MUNICIPALITY SHALL BE DIVIDED EQUALLY BETWEEN
THE STATE AND THE MUNICIPALITY.

5. NOTHING IN THIS TITLE SHALL PROHIBIT A MUNICIPALITY FROM IMPOSING
FURTHER RESTRICTIONS ON THE PROVISION OF SINGLE-USE BAGS BY RETAILERS
LOCATED IN THE MUNICIPALITY OR FROM IMPLEMENTING FURTHER MEASURES TO
EXPAND THE MUNICIPALITY'S PLASTIC BAG RECYCLING PROGRAM.

S 4. This act shall take effect on April 1, 2015.